

**CONTRACT #2**  
**RFS # 331.04-004-04**

**Department of Education**

**VENDOR:**  
**Public Consulting Group**



RECEIVED  
APR 13 2007  
FISCAL REVIEW

PHIL BREDESEN  
GOVERNOR

STATE OF TENNESSEE  
DEPARTMENT OF EDUCATION  
6<sup>th</sup> FLOOR, ANDREW JOHNSON TOWER  
710 JAMES ROBERTSON PARKWAY  
NASHVILLE, TN 37243-0375

LANA C. SEIVERS, Ed.D.  
COMMISSIONER

To: Mr. Jim White, Director  
Office of Fiscal Review

From: Lana C. Seivers  
Commissioner

A handwritten signature in cursive script, likely belonging to Lana C. Seivers.

Date: April 13, 2007

Re: Submissions of Requests for Non-Competitive Amendment with start date less than 60 days  
and Request to Appear Before the Fiscal Review Committee for Comment

Please consider the attached request for Non-Competitive Amendment. This amendment has a start date of May 1, 2005. It was at that time Public Consulting Group had their EasyIEP and EasyCensus software modified and ready to upload to the Oracle based environment that the State required. Also at this time it was determined that the State data center was not prepared to receive their software product due to needs for upgrades, new software installations, and hardware additions. The decision was made to allow PCG to continue the hosting of the EasyIEP program and the Tennessee data. The Department appeared before the fiscal review committee in the Fall of 2006 and had planned at that time to have the system migrated on to the state servers by November 1, 2006. The State data center is still not ready to receive this software application. It is the Department's intent to migrate the data from PCG servers, where it has been held since the beginning of the contract in January 2004, to the State data center by June 30, 2007 while the school systems are out on summer break. The addition of this deliverable will increase the contract's maximum liability by \$208,000.00.

This amendment will also include the addition of a payment point to the payment methodology section E.3. of this contract to allow the State to compensate the vendor for the end-user support that they have been providing the districts since the implementation of the Phase II districts. The addition of this payment point will increase the contracts maximum liability by approximately \$640,000.00.

This amendment will also allow for the increase in maximum liability to cover the additional districts that have been added to the EasyIEP only portion of this application. Memphis City Schools and Knox County Schools have elected to take advantage of the State's offer and have been added to the system effective during this school year. The addition of these two districts and their support and maintenance will increase the maximum liability by approximately \$2,100,000.00.

We appreciate your review and consideration of the attached request.

CC: Dr. Tim Webb  
Mr. Joe Fisher

Ms. Dawn Darden  
Ms. Samantha Law

# REQUEST: NON-COMPETITIVE AMENDMENT

APPROVED

Commissioner of Finance & Administration  
Date:

EACH REQUEST ITEM BELOW MUST BE DETAILED OR ADDRESSED AS REQUIRED.

1) RFS #	331.04-004-04		
2) State Agency Name :	Department of Education		
<b>EXISTING CONTRACT INFORMATON</b>			
3) Service Caption :	Statewide Student Management System		
4) Contractor :	Public Consulting Group		
5) Contract #	FA-04-15804-00		
6) Contract Start Date :			01/01/2004
7) <u>Current</u> Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :			06/30/2008
8) <u>Current</u> Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :			\$16,365,220.00
<b>PROPOSED AMENDMENT INFORMATON</b>			
9) <u>Proposed</u> Amendment #			03
10) <u>Proposed</u> Amendment Effective Date : (attached explanation required if date is < 60 days after F&A receipt)			05/01/05
11) <u>Proposed</u> Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :			06/30/2008
12) <u>Proposed</u> Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :			\$19,350,500.00
13) Approval Criteria : (select one)	<input checked="" type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state		
	<input type="checkbox"/> only one uniquely qualified service provider able to provide the service		
14) Description of the Proposed Amendment Effects & Any Additional Service :			

The proposed amendment will extend the deadline for transference of the EasyIEP and Easy Census applications to the State servers to June 30, 2007. The vendor will continue to host the application on its servers up until this date. This will cause an increase in the maximum liability of \$112,000.00

The proposed amendment will include the addition of a payment point in section E.3. of the contract that will allow the Department to compensate the vendor for the end user support that they have been providing since Phase II of implementation of the Statewide Student Management System. The different levels of user support were defined through Amendment 2 to this contract; however, at the time the definitions were added, the payment methodology and rate were inadvertently left off the Amendment. The payment point for the hosting charges that was added in Amendment 2 also did not include the hosting of EasyCensus by the vendor. The Department inadvertently left that portion of the application hosting cost off the monthly charge amount. This amendment will allow for the addition of that amount. Total increase to the maximum liability of \$96,000.00

Memphis City and the Knox County school systems have joined onto the Easy IEP only portion of this system within the past six months. The addition of these two large districts has made it necessary to increase the maximum liability of the contract by approximately \$2,100,000.00 to cover the expense of the additional support and ADM implementation costs for these two large districts that were not considered in the original implementation phases. The remaining approximate \$640,000.00 will be used to pay the cost for the end-user support that the vendor has been providing to the remaining LEAs across the state since phase 2 of implementation.

The total maximum liability of this contract after this amendment will be \$19,350,500.00.

**15) Explanation of Need for the Proposed Amendment :**

It was the department's intent to have the EasyIEP and EasyCensus applications hosted at the State data center by November 30, 2006. With the improvements to hardware and software that have been taking place at the data center, this deadline was unattainable for the migration of the application. It was considered to be in the best interest of the districts across the State to allow the vendor to continue hosting the application until the schools dismissed for their summer break. It is the Department's intent to have this application fully migrated by June 30, 2007.

The original contract was written to include the vendor's provision of a very high level, technical support and training support to the end user community. The original intent was that the State would hire personnel that could provide the end- user support to the districts. To date, the Department has been unable to hire and train employees who can provide the level of support that is required to the end users. It has become apparent to the Department, at this stage of implementation of the data system, that it is necessary to continue to provide end-user support on both Star Student and Easy IEP through the end of the current implementation phase. The contractor has consistently provided the end-user support as needed up to this point and the Department wishes to compensate the vendor for this service.

In addition to the provision of this level support, we have recently added on the Special Education populations of both Memphis City Schools and Knox County schools. The addition of these two districts has accounted for an increase in the ADM for the Easy IEP only districts by approximately 170,000 students for a total Phase III cost increase of over \$2,100,000.00 that was not calculated into the original ADM projections in the contract.

**16) Name & Address of Contractor's Current Principal Owner(s) :**

(not required if proposed contractor is a state education institution)

Public Consulting Group  
148 State Street  
Tenth Floor  
Boston MA 02109

**17) Documentation of Office for Information Resources Endorsement :**

(required only if the subject service involves information technology)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

**18) Documentation of Department of Personnel Endorsement :**

(required only if the subject service involves training for state employees)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

**19) Documentation of State Architect Endorsement :**

(required only if the subject service involves construction or real property related services)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

**20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :**

The Department attempted, unsuccessfully, to hire personnel to fill the void in providing support to the end users. The Department has not sought other means to procure this service from an outside vendor.

The increase in ADM is an increase in the quantity of services already provided in this contract and can not be competed.

The extension of the hosting of the application was not considered for competition.

**21) Justification for the Proposed Non-Competitive Amendment :**

In the original RFP and ensuing contract, the Department was to hire and train personnel who would be responsible for providing support to the end users across the state. An end user for Star Student is defined as personnel within the central office of a school or the central office of an LEA that is responsible for the entering and maintaining of individual student records (including but not limited to attendance, schedule, grades/GPA, suspensions, expulsions). An end user for EasyIEP is defined as personnel at the school and LEA level who are responsible for the entering, updating, and maintenance of individual student's special education records (including but not limited to evaluation data, Individualized Education Plans).

During the pilot phase of the implementation of the Statewide Student Management System (SSMS) the Department had not yet filled personnel vacancies that would allow for the detailed training and core knowledge required to provide significant end-user support to the LEA's personnel. The vendor had been providing the end user support for the pilot systems at no cost to the state. During year two of implementation it was determined that the level of complexity of the application was such that the Department would not be able to staff and train adequate support personnel in a timely manner to not disrupt service to the individual LEAs.

Memphis City and Knox County Schools were never included in the participation estimates on the original contract. Their addition to the EasyIEP only portion of this contract constitutes a 10% increase in the total ADM count and therefore an increase in the maximum liability of this contract to cover the expense of bringing those two districts on to the system and providing support and maintenance.

This amendment will allow for an additional payment point in section E.3. of the contract to pay the vendor for their support and will also allow an increase in the maximum liability of the contract to cover the added ADM that has been brought into the contract via Memphis City Schools and Knox County.

**REQUESTING AGENCY HEAD SIGNATURE & DATE :**

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR—signature by an authorized signatory will be accepted only in documented exigent circumstances)

  
Agency Head Signature

4.13.07

Date

# C O N T R A C T   S U M M A R Y   S H E E T

8-8-05

<b>RFS #</b>	<b>Contract #</b>
<b>331.11-004-04</b>	<b>FA-04-15804-03</b>
<b>State Agency</b>	<b>State Agency Division</b>
Department of Education	Assessment
<b>Contractor Name</b>	<b>Contractor ID # (FEIN or SSN)</b>
PUBLIC CONSULTING GROUP INC	<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- V042942913-00

<b>Service Description</b>			
SSMS			
<b>Contract Begin Date</b>	<b>Contract End Date</b>	<b>SUBRECIPIENT or VENDOR?</b>	<b>CFDA #</b>
January 01, 2004	June 30, 2008	Vendor	See Supplement Form

Mark, if Statement is TRUE

<input checked="" type="checkbox"/> Contractor is on STARS as required				<input checked="" type="checkbox"/> Contractor's Form W-9 is on file in Accounts as required	
<b>Allotment Code</b>	<b>Cost Center</b>	<b>Object Code</b>	<b>Fund</b>	<b>Funding Grant Code</b>	<b>Funding Subgrant Code</b>
331.11	VAR	083	25	VAR	VAR
<b>FY</b>	<b>State</b>	<b>Federal</b>	<b>Interdepartmental</b>	<b>Other</b>	<b>TOTAL Contract Amount</b>
2004	\$1,184,710.00	\$0.00	\$1,427,500.00	\$0.00	\$2,612,210.00
2005	\$2,936,190.00	\$0.00	\$1,510,360.00	\$0.00	\$4,446,550.00
2006	\$1,891,130.00	\$433,000.00	\$1,000,000.00	\$0.00	\$3,324,130.00
2007	\$3,190,306.05	\$3,268,280.00	\$1,000,000.00	\$0.00	\$7,458,586.05
2008	\$426,023.95	\$283,000.00	\$800,000.00	\$0.00	\$1,509,023.95
<b>TOTAL:</b>	\$9,628,360.00	\$3,984,280.00	\$5,737,860.00	\$0.00	\$19,350,500.00

<b>— COMPLETE FOR AMENDMENTS ONLY —</b>			<b>State Agency Fiscal Contact &amp; Telephone #</b>
<b>FY</b>	<b>Base Contract &amp; Prior Amendments</b>	<b>THIS Amendment ONLY</b>	Melissa Hinton - 615-741-6214
2004	\$2,612,210.00	\$0.00	<b>State Agency Budget Officer Approval</b>
2005	\$4,446,550.00	\$0.00	
2006	\$3,324,130.00	\$0.00	
2007	\$4,183,930.00	\$3,274,656.05	<b>Funding Certification</b> (certification, required by T.C.A., § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)
2008	\$1,798,400.00	(\$289,376.05)	
<b>TOTAL:</b>	<b>\$16,365,220.00</b>	<b>\$2,985,280.00</b>	
<b>End Date:</b>	<b>6/30/2008</b>	<b>6/30/2007</b>	

<b>Contractor Ownership</b>				
<input type="checkbox"/> African American	<input type="checkbox"/> Person w/ Disability	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business	<input checked="" type="checkbox"/> NOT minority/disadvantaged
<input type="checkbox"/> Asian	<input type="checkbox"/> Female	<input type="checkbox"/> Native American	<input type="checkbox"/> OTHER minority/disadvantaged—	

<b>Contractor Selection Method</b>		
<input checked="" type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation	<input type="checkbox"/> Alternative Competitive Method
<input type="checkbox"/> Non-Competitive Negotiation	<input type="checkbox"/> Government	<input type="checkbox"/> Other

<b>Procurement Process Summary</b>
This contract was awarded through the RFP process.

**AMENDMENT # 03  
TO CONTRACT FA-04-15804-00**

This Contract, by and between the State of Tennessee, DEPARTMENT OF EDUCATION, hereinafter referred to as the State, and PUBLIC CONSULTING GROUP INC, hereinafter referred to as the Contractor, is hereby amended as follows:

1. Delete Section A.1.p. in its entirety and replace it with the following:

A.1.p. The Contractor will host the EasyIEP and EasyCensus programs and data on their servers from the period beginning May 1, 2005 and continuing through June 30, 2007. On or before June 30, 2007, all data will be migrated to the State Data Center and fully functioning on the State provided servers.

2. Delete Section E.1. in its entirety and replace with the following:

E.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Nineteen Million Three Hundred Fifty Thousand Five Hundred Dollars and No Cents (\$19,350,500.00). The Service Rates in Section E.3. shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section E.3. The State is under no obligation to request work from the contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

3. Add the following to Section E.3. Payment Methodology

Year Three Cost Schedule from July 1, 2005 through June 30, 2006

Monthly charge for hosting Easy Census and Tennessee Data by the Contractor	\$10,000.00
Cost per ADM for end-user support for Star Student and Easy IEP	\$2.25
Cost per ADM for end-user support for EasyIEP only	\$1.13

Year Four Cost Schedule from July 1, 2006 through June 30, 2007

Monthly charge for hosting Easy Census and Tennessee Data by the Contractor	\$10,000.00
Cost per ADM for end-user support for Star Student and Easy IEP	\$2.25
Cost per ADM for end-user support for EasyIEP only	\$1.13

Year Five Cost Schedule from July 1, 2007 through June 30, 2008

Cost per ADM for end-user support for Star Student and Easy IEP	\$2.25
Cost per ADM for end-user support for EasyIEP only	\$1.13

The other terms and conditions of this CONTRACT not amended hereby shall remain in full force and effect.



**IN WITNESS WHEREOF:**

**PUBLIC CONSULTING GROUP INC:**

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**Stephen P. Skinner, Partner**

**Date**

**DEPARTMENT OF EDUCATION:**

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**Lana C. Seivers, Commissioner**

**Date**

**APPROVED:**

**DEPARTMENT OF FINANCE AND ADMINISTRATION:**

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**M. D. Goetz, Jr., Commissioner**

**Date**

**COMPTROLLER OF THE TREASURY:**

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**John G. Morgan, Comptroller of the Treasury**

**Date**

# Excerpt from Sept. 12, 2006

there, for all of us share and use it. The turf issues and the brick walls are being torn down and dissipating very quickly.

Chairman Curtiss: Colonel, we appreciate you and your staff being with us today.

Chairman Curtiss: Next is the Department of Education.

*Contract 5 - RFS# 331.11-004 (Department of Education with the Public Consulting Group, Inc.) - Presenter: Mr. Tim Webb, Assistant Commissioner.*

Mr. Webb: I am here today to request approval of a noncompetitive amendment to a statewide student management contract, which is a web-based student information system that was competitively bid in 2003-04 with a start date of January 2004. This system provides an application known as star student which is a student information system with all the student demographics and that sort of information, an easy IAP program which is an individualized education program plan writer for our special education students, and also an easy census piece which is a special education options reporting and collecting piece that allows us to provide our funding for special education. This particular system is provided and available to all our local education agencies (LEAs), if they choose to use it, at no cost.

This proposed amendment will do three things. It will detail some definitions of support that were not properly defined in the original contract. This does not affect the maximum liability of this contract. The second deliverable for an easy IAP program for the LEAs, if they choose to use only the special education piece. Initially we were requiring the LEAs who chose to come on, to use the entire package. We had some larger districts and other districts across the State who had invested sizeable capital in their own student information systems that are now interoperable with other systems due to the emerging technologies. We had room within the contract to

allow them to use the easy IAP piece for special education IAP routers if they chose to do so. This does not affect the maximum liability of the contract. The third thing is to allow us to pay the vendor, Public Consulting Group, for hosting of the easy IAP product for a period of time due to some difficulties in both the application and the database in OIR. This would allow us to pay that bill and does not exceed the maximum liability of the contract.

We were actually able to amend the maximum liability of the contract downward and cover any additional costs that this amendment would bring.

Representative Rowland: You have three pieces in this program, and one of them was not Oracle-based.

Mr. Webb: Originally, it was not. That is correct.

Representative Rowland: But the other two segments were.

Mr. Webb: Yes. However, the RFP did call for it to be Oracle-based, and that is the reason that you see the start date of the amendment being May 1, 2005. The contract actually started on January 1, 2004. During that initial period, the contract was not quite ready to be moved into the Oracle database. Part of that was the vendor's responsibility. Part of that was our responsibility for not having the specifications defined well enough within the RFP for them to know what version and how the application should mesh. Therefore, the vendor has not assessed any charge to us for hosting. They have hosted this thing since January 1, 2004. They have not asked for any reimbursement or paying for anything until May of 2005, because we have been able to back date and find that in May of 2005, they were well ready. Actually, they were ready in November of 2004, but because it was the middle of a school year and we did not want to create the chaos and upheaval for the school

districts, we opted to wait until the end of the school year to make that move. We were not ready at that time in the State data center and are still working on issues. They have been hosting this free gratis due to our inability to host it since May of 2005. That is why the hosting charge is in this particular amendment.

Representative Rowland: And the inability to host was because that one section was not in Oracle?

Mr. Webb: That was initially the cause. Then they got it in Oracle and got it in the right version, but we were not ready to receive it. So more than likely, we would have not been ready to receive it if it had been in Oracle in January of 2004. That is an assumption on my part. We anticipate having all these issues resolved in the State data center by September 24, and with everything being migrated by November 1 of the current year.

Representative Rowland: The contract indicates that several of the school districts have procured their own at the district level. Do their plans or software communicate with yours on a state level and is there a move at some point in time for them to change over to this new database that you have purchased, or are their systems so new that they are just going to stay with it?

Mr. Webb: We believe that the price points and the cost effectiveness for the local districts will drive them onto this system – the ones that have chosen not to. At the present time, we have 136 school districts in the state and 100 of the districts are currently operating in our system. We have sixteen more that are scheduled to come over this year. The primary reason that most of the others have not come over is because of the investment they have made in recent years in their systems and they are comfortable with them. Many of them are large urban districts and chose not to until we could prove that we could do this and do it effectively. We believe

they will come over. In some cases, these folks are paying several thousands, if not hundreds of thousands of dollars, in maintenance and licensing for the software that they are using. It would just not be cost effective for them to continue to pay that price when we are providing it free.

To answer your second question, we are very actively pursuing and achieving total interoperability between these systems so that they communicate both horizontally and vertically with our operational data center here at the State.

Representative Rowland: So when all 136 districts get on in all three aspects of the program, there will be no interfacing necessary because their software will go by the wayside.

Mr. Webb: That is correct.

Representative Brooks: So your amendment in reference to what you are paying out began in effect on May 1.

Mr. Webb: Yes, that is correct and also reducing the maximum liability of the contract at that time to allow us to cover the cost.

Representative Brooks: It is a reduced cost, but it reflects a reduced timeframe of coverage doesn't it?

Mr. Webb: No, sir. It's just for this one particular piece, the hosting piece and only affects the easy IAP piece of the components. The life of the contract is still four and one-half years, January 1, 2004 through June 30, 2008.

Representative Brooks: The State is offering this service at no cost to the individual districts. Is this an ongoing policy or just good for a year or two?

Mr. Webb: It is our intent for this to continue to infinity.

Representative Brooks: That sounds good.

Chairman Curtiss: On this original contract, there was a sizeable bit of this subcontracted out from the prime contractor to a subcontractor. I don't believe the language in the contract ever refers to them as a subcontractor. It almost looked like it was a joint venture. In the statute, we have given the Comptroller the authority to audit a subcontractor. Is the Department comfortable with the verbiage in the original contract and in the amendment that the Comptroller does have that authority if he needed to do that?

Mr. Webb: We believe so, because the Comptroller's office did review the contract and the RFP. In the RFP, Section 4.1 allowed for and encouraged joint ventures and partnerships in order to try to reduce price points and get more people to bid on the contract. Based on the fact that the Comptroller did review the RFP and the contract document before it was signed, we believe that we are covered. We also have an agreement with the vendor in the contract.

Chairman Curtiss: The Comptroller is out of state or I wouldn't have been asking you that question. I would have already had the answer.

Representative Rowland: I notice in the cost schedules that for year 5, we have a cost schedule for the annual maintenance and support, but there is not a cost for the monthly charge of hosting. Are we going to be renegotiating?

Mr. Webb: No. By November 1 of this year, there should never be another monthly hosting charge assessed to the State, because we should have all this data migrated to the State data center and operating in our Oracle environment. The only thing that we would be paying at that point, the \$154,000, is for those seven districts

that are using easy IAP only. They were not assessed in the original maintenance part of the contract.

Representative Rowland: But if your intent is to bring all the districts on and they are using the other two aspects of this, won't they also be using the easy IAP? That is just part of the package.

Mr. Webb: In order to allow some local autonomy, and it is causing us a great deal of grief, we have allowed them to pick and choose in phase 3 and phase 4 of the contract. Some of them were very comfortable with their special education vendor and opted to stay with them. We have worked out ways to transfer through file transfer protocol and other mechanisms to move data from theirs into our easy census, which is where our options are calculated for BEP funding and for special education reporting to the federal government. We have tried to make it as palpable as we could due to local autonomy.

Representative Rowland: I can understand that, but you are incurring a cost at your end for the transfer in making the data accept one another. They still have to maintain that one software and the maintenance and licensing for that going forward when they have a program that's already available of which they are using two aspects. I am sure you are going to encourage them to transfer over.

Mr. Webb: Yes, in every venue we are encouraging them to come over to this system so that we can eliminate a lot of trouble that we are having.

Chairman Curtiss: We certainly appreciate your being with us today.

Chairman Curtiss: Is there anything else to come before the Committee? Mr. White, do you have anything?

Mr. White: Mr. Chairman, just to mention that the staff did host a seminar last month for all state departments and agencies on the contract review process. In your packet, you will find a list of departments that attended the seminar and a list of departments that did not attend the seminar.

Representative Rowland, one of the things to come out of that was the checklist that you mentioned earlier that Ms. Chick developed for departments to use in providing information to us. We hope this will help departments understand what information the Committee expects them to provide so that we are all on the same page.

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WHEREUPON, having no further business, the Subcommittee adjourned.



MINUTES OF THE  
CONTRACTS SUBCOMMITTEE OF THE  
FISCAL REVIEW COMMITTEE  
MARCH 28, 2005

The Contracts Subcommittee met at 2:30 p.m. on Monday, March 28, in Room 30 of the Legislative Plaza.

Members present: Chairman McLeary; Vice-Chairman Fowler; Representatives Ferguson, Pruitt, Rowland, Shepard, and Todd. Other Fiscal Review Committee members present: Representatives Curtiss, Brooks and Dunn.

Chairman McLeary called the meeting to order and informed members that there had originally been seven contracts for today's review but TennCare had asked that the contract with First Health Services Corporation be rolled until the next meeting due to litigation.

Contract 1 – Dept. of Education (RFS#331.11-004 – Public Consulting Group, Inc.) – Mr. Tim Webb, Assistant Commissioner, identified this as a noncompetitive amendment beginning May, 05 and ending on June 30, 2008 at a total cost of \$16,908,310 for leasing of statewide student management software. Representative Todd asked if we would be able to own the code at the end of the contract period. Mr. Webb replied that the system is currently being leased and this is just an add-on. To buy the software would have to be renegotiated at the end of the roll out on June 30, 2008. At the time the initial contract was bid, the price points were too expensive to buy the proprietary software, so it was much less expensive to lease.

Chairman McLeary questioned inclusion of the hold harmless clause in the contract since F&A asked that those no longer be included. Mr. Webb stated that he had no knowledge of this. Chairman McLeary asked Ms. Chatterjee for clarification. Ms. Chatterjee stated that the Office of Contract Review in the Department of Finance and Administration had instructed all state agencies to no longer include this language as of 2005 to conform to state law since there are various state laws prohibiting hold harmless clauses. Senator Fowler asked from what would we be holding them harmless. Mr. White stated that in this instance, the contractor would hold the state of Tennessee harmless from negligence or acts of omission in performance of the contract. Senator Fowler moved approval of the contract; Representative Todd seconded the motion, and it carried unanimously.